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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,744	12/28/2000	Hyung Byum Kim	13788	7201

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/750,744

Applicant(s)

KIM ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. With respect to Claims 1, 5-9, 15, 17-19, 21 and 22: These claims contain the acronyms TABCW and PET, it is unclear what these means, and it is suggested to write out the full name instead of the acronyms in the claims.
5. Claim 3 recites the limitation "said basis" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. With respect to claim 3: the phrase "said basis providing for high void volume" is indefinite. It is unclear to the examiner what this phrase is trying to claim and how a measurement can provide a void volume.
7. With respect to Claim 9: the phrase "the pledget comprises a composite of an airlaid material and a TABCW" is indefinite. "Airlaid" and "TABCW" are methods used to form a layer of material, where individual fibers are formed to make a layer, therefore it is unclear how

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one layer can comprise a composite of an airlaid material and a TABCW. How is this layer formed? Is it a laminate of two layers?

8. With respect to Claim 12: the phrase “the pledget has a first surface situated adjacent the garment-facing surface of the cover and a second surface bonded to at least one of the absorbent core or wrapping material” is indefinite. If the wrapping material wraps around the core, then how is it possible for the pledget to be attached to the core and adjacent the cover at the same time, and if the wrapping material is around the entire article then how can pledget be situated adjacent the garment facing surface of the cover while being attached to the wrapping element.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

10. Claims 1-3, 5-7, 10, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Chmielewski (6,068,620).

11. With respect to Claim 1: Chmielewski discloses the use of an absorbent article with an absorbent core (35) and an intake pledget (344) that is made of a nonwoven material (column 11, lines 30-37). See Figure 4

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12. With respect to Claim 2, and 5-7: these claims are rejected as being dependent on an unselected species of the Markush group in Claim 1.
13. With respect to Claim 3: Chmielewski discloses the pledget to be an airlaid nonwoven with a density of 30-120 gsm (column 11, lines 30-37).
14. With respect to Claim 10: Chmielewski discloses the core being made of pulp and superabsorbent (column 11, lines 9-29).
15. With respect to Claims 12 and 13: Chmielewski discloses the use of a cover (301), a wrapping material (tissue 348), and a fluid distribution layer (350).
16. Claims 1-7, and 10-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamajima et al. (6,326,525).
17. With respect to Claim 1: Hamajima discloses the use of an absorbent article (1) with a core (33) and a pledget (27) made out of a non-woven material (column 5, lines 11-18).
18. With respect to Claims 2 and 5-7: These claims are rejected as being dependent on an unselected species of Claim 1.
19. With respect to Claims 3 and 4: Hamajima discloses the pledget being made of an airlaid non-woven material with superabsorbent material (column 5, lines 11-18).
20. With respect to Claim 10: See Column 6, lines 50-56.
21. With respect to Claim 11: Hamajima discloses the pledget being the same length as the article, which in Figure 1 and 3 measure over 100mm, and the width being between 15-60mm (column 3, lines 44-46).

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22. With respect to Claims 12-14: Hamajima discloses the use of a cover (23), a wrapping element (31), a fluid distribution layer (24), and embossed grooves that are between 0.1-5mm (column 4, lines 44-46) (See Figure 2A and B).

23. Claims 1-4, 8-10, 15, 17, 19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by DiPalma et al. (5,649,916).

24. With respect to Claims 1, 15, 17, 19 and 21: DiPalma discloses the use of an absorbent article (10) with a core (22) and a pledget (18, and 20) that is made of a through air bonded carded web (column 5, lines 32-35). DiPalma also discloses the use of an apertured topsheet that is made of thermoplastic material such as polyester (column 3m, lines 45-57).

25. With respect to Claims 2-4: these claims are drawn to an unselected species of the Markush group of Claim 1.

26. With respect to Claims 8 and 9: DiPalma discloses the top layer of the Pledget to be a through air bonded carded web (column 5, lines 32-35) and the bottom layer (20) being made of an airform matrix (column 6, lines 12-13).

27. With respect to Claim 10: See Column 6, lines 40-41.

### ***Claim Rejections - 35 USC § 103***

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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29. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

30. Claims 16, 18, 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiPalma in view of Reiter et al. (5,769,834).

31. With respect to Claims 16 and 20: DiPalma, as disclosed for claims 15 and 19 above, fails to disclose the topsheet comprising rayon material. Reiter discloses the use of a topsheet that comprises well-known material such as rayon and rayon/polyester blend. (column 5, lines 11-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the topsheet of DiPalma be made of rayon or rayon/polyester blend of Reiter, in order to have a topsheet with relatively hydrophobic materials having good strike-through characteristics. (see Reiter column 5).

32. With respect to Claims 18 and 22: Reiter discloses the rayon/polyester blend, but does not disclose the specifics of 70% rayon and 30% polyester. It would have been an obvious matter of design choice to have the amount of rayon be 70% and the amount of polyester be 30% since applicant has not disclosed that these specific percentages solves any stated problem and is for any particular purpose and it appears that the invention would perform equally well with the blend of Reiter. Furthermore, it has been held that where the general conditions of a claim are

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discloses in the prior art, that discovering the workable range or obvious range involves only routine skill in the art.


***Conclusion***

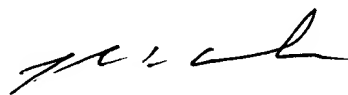
33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Coles et al. (5,873,867) discloses the use of an absorbent material with an intake pledget.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw   
March 7, 2002





**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

**Failure to take corrective action within the set period will result in ABANDONMENT of the application.**